

EMILY WILLIS
EXHIBIT A

EMILY WILLIS
HOLCOMBE vs UNITED STATES of AMERICA

May 26, 2020

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

JOE HOLCOMBE, et al.,

Plaintiff,

vs.

Civil Action No:
5:18-cv-00555-XR

UNITED STATES OF AMERICA,

Defendant.

REMOTE VIDEOTAPED DEPOSITION OF

EMILY WILLIS

May 26, 2020

10:00 a.m.

Remote Videotaped Proceedings
Colorado Springs, Colorado

Cynthia Gage, B.S., M.A., California CSR No. 10492
Notary Public in and for the State of Colorado

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APPEARANCES OF COUNSEL
(ALL PARTIES APPEARED VIA WEBCAM/TELECONFERENCE)

On Behalf of the Defendant:

U.S. DEPARTMENT OF JUSTICE
BY: JOCELYN KRIEGER, ESQ.
(Appeared Remotely)
175 N Street NE
Room 11.1326
Washington, DC 20002
(202) 616-1679
jocelyn.krieger@usdoj.gov

On Behalf of the Plaintiff:

SCHREIBER, KNOCKAERT, PLLC
BY: JOSEPH SCHREIBER, ESQ.
(Appeared Remotely)
701 North Post Oak Road
Houston, Texas 77024
(281) 949-8904
peter@praxidicelaw.com

Also Present remotely:

Daniel Chung
Jamal Alsaffar
Austin Furman
Steven Handler

The Remote Videographer:

Angela Lyons

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1 REMOTE VIDEOTAPED DEPOSITION OF EMILY WILLIS

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3
4 THE VIDEOGRAPHER: We are now on the record.

5 The time is 10:00 a.m. on May 26th, 2020. This is 10:00:53
6 the videoconference deposition of Emily Willis taken
7 in the matter of Joe Holcombe, et al., versus the
8 United States of America filed in the United States
9 District Court for the Western District of Texas,
10 Civil Action No. 5:18-cv-00555-XR. My name is 10:01:15
11 Angela Lyons. I am your remote videographer today.
12 The court reporter is Cynthia Gage. We are
13 representatives of Esquire Deposition Solutions.

14 As a courtesy, will everyone who is not
15 speaking please mute your audio and please remember 10:01:36
16 to unmute your audio when you are ready to speak.
17 Would everyone present please identify yourself and
18 state who you represent, after which the court
19 reporter will swear in the witness.

20 MR. SCHREIBER: This is Joe Schreiber on 10:01:50
21 behalf of the Plaintiffs.

22 MS. KRIEGER: Jocelyn Krieger on behalf of
23 the United States.

24 MR. ALSAFFAR: Jamil Alsaffar for the
25 Plaintiffs. 10:02:21

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1 MR. FURMAN: Austin Furman for the Defendant
2 United States:

3 MS. WILLIS: My name is Emily Willis.
4

5 EMILY WILLIS,
6 having been duly sworn remotely was
7 examined and testified as follows:

8 EXAMINATION

9 BY MS. KRIEGER:

10 Q Hi, Emily. We have met off the record a few
11 times, spoken a few times not on the record. But
12 nonetheless, my name is Jocelyn Krieger. I represent
13 the United States in this case. You have just heard
14 a number of attorneys on the phone. Primarily though
15 Joe Schreiber is representing the Plaintiffs here.

16 This case is based on the shooting committed
17 in Sutherland Springs, Texas, by Devin Patrick
18 Kelley. The Plaintiffs here are the victims of the
19 shooting, who are suing the United States for
20 negligence.

21 Do you have any prior experience having your
22 deposition taken?

23 A No, ma'am.

24 Q Do you have any prior experience testifying
25 in court?



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1 appears to be another screen shot. The title of the
2 document right now is Willis image 3. I'm sorry.
3 The previous one will be Exhibit 4. This will be
4 Exhibit 5.

5 What is this image showing?

10:23:22

6 A This image is a conversation between
7 Danielle and I after she had sent to me the photos of
8 Michael's legs. We had had a conversation about it
9 where I was explaining to her that I don't feel
10 comfortable living with Devin anymore, and I was
11 trying to convince her to go and speak to the police.

10:23:41

12 Q What is the date -- do you recall is this
13 the same -- was this text conversation occurring at
14 the same time on the same date that you received the
15 photographs?

10:24:01

16 A Yes, ma'am.

17 Q Does that make sense?

18 A Yes.

19 Q Okay. So the photographs were sent -- taken
20 and sent to you, you said, around July 13th. You
21 believe the conversation was also July 13th?

10:24:10

22 A Yes, ma'am.

23 Q And I will show you a fourth image that I
24 received, which will be Exhibit 6.

25 (Exhibit 6 was marked for identification.)

10:24:29

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1 BY MS. KRIEGER:

2 Q What is this image?

3 A This is a screen shot of a conversation
4 between Devin Kelley and myself. Yes.

5 Q Did you take the screen shot?

6 A Yes, ma'am.

7 Q What was the date that you received these
8 messages from Devin Kelley?

9 A I don't recall at the moment. I could go
10 back into the conversation where this picture was
11 taken and look at it, if you would like.

12 Q To be clear, you do still have this
13 conversation on your phone or --

14 A Yes, I still have this picture on my phone.

15 Q Okay. You don't have to look at this
16 second.

17 A Okay.

18 Q Maybe when we take a break, if you could
19 check and we can confirm.

20 A Yes.

21 Q How did you know that these -- how did you
22 know that these texts were sent from Devin Kelley?

23 A This I believe was the phone number that I
24 had for Devin Kelley. That's why his name was saved
25 under the phone number as shown in the picture.

10:24:46

10:25:07

10:25:19

10:25:29

10:25:43

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1 that were more or less forced on Danielle from what
2 she had told me.

3 Also on this form it said, um, that Willis
4 caught Kelley masturbating in her room while she
5 resided with the Kelleys." That is incorrect. I
6 found out about that situation because Danielle had
7 texted me shortly after they had left to tell me that
8 information.

10:36:35

9 Um, the next statement in here, um, I
10 believe it is -- I believe it's five paragraphs down
11 where it says that Willis did not know why the
12 Kelleys moved to Colorado. Um, from my memory, um,
13 the reason that they moved to Colorado was because
14 there were some issues between Devin Kelley and
15 Danielle Kelley's parents.

10:37:11

16 And also I recall them talking about wanting
17 to start up a marijuana business.

18 Would you mind scrolling down, please?

19 All right. That's it.

20 Q Okay. And then I will show you one more

10:38:04

21 document, which we -- there it is -- which we will

22 mark as Exhibit 9. I will make it full screen. This

23 is an eight-page document. The Bates number at the

24 bottom is USA 00023557.

25 (Exhibit 9 was marked for identification.)

10:38:20

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1 Devin Kelley.

2 Q Do you know why they were living in
3 Colorado?

4 A Um, like I had mentioned before, I believe
5 from my memory we had talked about how Devin and her
6 parents, Danielle's parents, were just not getting
7 along. So they had moved out here to get away from
8 that. But they had also mentioned something about
9 starting up in the marijuana business, being involved
10 in that.

10:51:42

10:52:02

11 Q Where were Devin and Danielle living when
12 you first met them?

13 A They were living in a trailer just a few
14 minutes away from Texas Roadhouse.

15 Q Was the trailer in like a trailer park or on
16 someone's property?

10:52:15

17 A It was not on someone's property. I believe
18 it was in a trailer park.

19 Q How did you come to live with the Kelleys?

20 A A few months after I had met them, I was
21 living at the time at my mother's house. It was just
22 time for me to move on with my life. And they were
23 interested in getting an apartment and getting out of
24 their trailer home. And so we had spoken about
25 possibly getting an apartment together, and we ended

10:52:34

10:52:54

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1 up doing that.

2 Q Um, did you know -- how well did you know
3 Danielle before you moved in together?

4 A Not very well.

5 Q How long had you known Danielle at that
6 point in time?

7 A Just a few months.

8 Q Did you know Devin well before you moved in
9 with them?

10:53:08

10:53:22

10 A Not very well. I only knew him when we --
11 when I went over to see them and see their baby.
12 Just kind of in passing I guess I knew him.

13 Q How many times do you think you had met
14 Devin before you moved in with them?

15 A To my memory, I would say three.

10:53:43

16 Q Where -- so you all moved in together. You
17 don't have to give me the address, but what city were
18 you all living in at that time?

19 A The apartment we moved into was here in
20 Colorado Springs.

10:54:03

21 Q And how big of an apartment was it?

22 A It was a two bedroom/two bath apartment.

23 Q While you were living -- how long did you
24 and the Kelleys live together for?

25 A I want to say it was a little over two weeks

10:54:18

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1 before they had left.

2 Q You only lived with them for two weeks?

3 A Yes, ma'am.

4 Q When you were living with them, how often
5 did you see them?

10:54:36

6 A I saw them daily, yeah.

7 Q Did you hang out with them? Spend a lot of
8 time together?

9 A We ate meals together. We would have movie
10 nights together on the couch. We would go grocery
11 shopping together. So we did spend a lot of time
12 together.

10:54:56

13 Q Were you at the apartment very much? In a
14 given day, how long were you at the apartment for
15 would you say?

10:55:12

16 A I was a waitress at the time. So other than
17 going to work, I was pretty much at the apartment all
18 the time.

19 Q How -- how long were your shifts at work?

20 A I don't recall.

10:55:26

21 Q Were the Kelleys -- how much were -- in a
22 given day, how much time would the Kelleys spend at
23 the apartment?

24 A To my memory, the whole day unless they were
25 going out to explore something. They were pretty

10:55:42

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1 much at the apartment all the time.

2 Q Did either of them have a job?

3 A Not that I can recall, no.

4 Q Do you know how they paid rent?

5 A I do not know.

10:55:58

6 Q Did you ever hear if one of the parents were
7 helping them or anything like that?

8 A Not to my memory, no.

9 Q In the apartment it was you and Devin and
10 Danielle and also the baby; is that right?

10:56:20

11 A Yes, ma'am.

12 Q You said that neither of them had jobs, but
13 you and Danielle had previously worked together.
14 When did Danielle stop working?

15 A I don't recall when she had stopped working.
16 I know that she had went on maternity leave when she
17 had Michael, but I don't recall whether or not she
18 went back after.

10:56:35

19 Q Do you know why she stopped working or
20 possibly why she didn't go back?

10:56:54

21 A I recall that Devin was not a fan of her
22 just going out and being on her own. It was his
23 preference that she stay at home the majority of the
24 day.

25 Q Were you and Danielle close when you moved

10:57:11

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1 in together?

2 A In my opinion, yes.

3 Q Why did you say that you were close?

4 A We had just had a lot of commonalities in
5 our life stories in terms of people we dated. She
6 was a very sweet person, and she would kind of talk
7 to me about life. She was just very nice so.

10:57:29

8 Q Did you -- I know you worked together
9 initially. Did you do anything together outside of
10 work?

10:57:49

11 A Um, other than when I went to go see her
12 after she had her baby, no.

13 Q Before you moved in together, would you have
14 personal conversations with Danielle?

15 A Yes, but nothing in regards to Devin. It
16 was probably just more about like her life, and where
17 she grow up, and where she went to school. It was
18 never anything like private.

10:58:03

19 Q Did you have personal conversations after
20 you moved in together?

10:58:21

21 A Yes, ma'am.

22 Q What kinds of -- what did you talk about in
23 those conversations?

24 A Primarily we just spoke about Devin and his
25 past. That's when she initially started opening up

10:58:32

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1 to me about, um, their past relationship with each
2 other and, um, his life before he met her and stuff
3 in regards to that.

4 Q What did she tell you about Devin's life
5 before he met her?

10:58:53

6 A Um, she had shared that Devin was previously
7 married, that he -- there was some abuse between him
8 and the woman he was married to and also her child.

9 To my memory, they had also mentioned something about
10 a dog being involved in the abuse. She had mentioned

10:59:11

11 that he had been dishonorably discharged from the
12 military. She had told me about occasions where he
13 would push her down the stairs or hit her, verbally
14 belittle her, just kind of stuff along those lines.

15 Q Were there any specifics incidences --
16 incidents, excuse me, that Danielle told you about
17 where Devin was abusive?

10:59:36

18 A Yes, ma'am. I remember a conversation and
19 when she told me prior to being pregnant with
20 Michael, she had been pregnant before and he had
21 pushed her I believe it was down stairs and she had
22 had a miscarriage after that. I don't have any
23 memory of any other instances.

10:59:54

24 Q When would you have these conversations?
25 You know, Devin was also around all the time.

11:00:17

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1 A Yeah. Primarily we would just talk when
2 Devin would be in the shower or using the restroom,
3 in his room playing video games. Pretty much they
4 were very brief conversations between her and I when
5 he was out of the room for a little bit.

11:00:36

6 Q What -- how would you describe Danielle at
7 that time?

8 A Um, very sweet, very honest, um, scared, but
9 more for her child than for herself. Just pretty
10 much in that way.

11:01:01

11 Q We have been going about an hour. Do people
12 like to take a five-minute break? Okay.

13 THE VIDEOGRAPHER: We are going off the
14 record. The time is 11:01 a.m.

15 (Recess.)

11:06:36

16 THE VIDEOGRAPHER: We are back on the
17 record. The time is 11:06 a.m.

18 BY MS. KRIEGER:

19 Q I just wanted to follow up on something that
20 I had asked you about a second ago. You said that
21 you lived them for two weeks, the Kelleys for two
22 weeks. I am going to show you Exhibit 9 again. This
23 is on the page that is marked the last Exhibit 23561.
24 It says under "Emily Willis statement, Ms. Willis
25 says she has been living with the Kelleys since

11:06:52

11:07:19

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1 June 26th, 2015." Is that -- to your recollection,
2 is that accurate?

3 A To my recollection, yes.

4 Q At the time that you made that statement to
5 the Colorado Police, that was fairly close in time to
6 when you were living with the Kelleys; right?

11:07:34

7 A I'm sorry. You said --

8 Q When you made this statement to the Colorado
9 Police, that was closer in time to when you were
10 living with the Kelleys; is that right?

11:07:52

11 A Yes, ma'am.

12 Q And I believe you said that the Kelleys
13 moved out the day of or the day before you filed this
14 report; is that correct?

15 A Yes, ma'am. I believe I filed it on
16 July 14th, and they had moved out of my apartment the
17 night prior.

11:08:12

18 Q So I can't do that math. Well, whatever the
19 math is, June 26th to July 13th or 14th, that's how
20 long you lived with the Kelleys; is that fair?

11:08:30

21 A Yes, ma'am.

22 Q How would you describe Devin Kelley at the
23 time that you were living with him?

24 A Um, I would describe Devin Kelley as very
25 persuasive, opinionated, more or less on the

11:08:57

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1 aggressive side in terms of like making seductive
2 comments more aggressively. He had a very
3 big-man-in-charge personality. Yeah.

4 Q You said he was very persuasive. How was he
5 persuasive?

11:09:32

6 A Um, more like suggestive persuasive. Like
7 if he wanted to do something, that's what was going
8 to happen. If he wanted to buy something particular
9 at the grocery store, that's what we were buying. If
10 he wanted to watch a particular movie, that's what we
11 were watching because that's what he wanted to watch.

11:09:52

12 Q So he was very much like in control; is that
13 fair?

14 A Yes, ma'am.

15 MR. SCHREIBER: Objection. Leading.

11:10:08

16 BY MS. KRIEGER:

17 Q When you said he had like a big-man
18 personality, what -- what do you mean by that?

19 A Um, I meant that he, um, presented himself
20 as bigger than you, stronger than you, his opinion
21 was more important than yours. Like he was higher
22 than you when you were kind of down here. It was his
23 life and you were kind of just living in it. I don't
24 know if that makes sense.

11:10:28

25 Q Was Kelley -- was Devin Kelley ever

11:10:56

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1 aggressive?

2 A Not toward me. Um, more verbally -- more
3 verbally aggressive I would say in terms of towards
4 other people. He would not be verbally aggressive
5 towards them, but he would talk to Danielle and I 11:11:15
6 about -- I don't know if that makes sense -- um,
7 about his opinions and ideas about other people in
8 more of an aggressive way.

9 Q Can you give any example of how he would be
10 aggressive about other people to you and Danielle? 11:11:34

11 A Yes. Thank you for explaining it better.
12 If we were driving in the car and somebody got in
13 front of him, he would kind of scream out in the car.
14 He was very -- um, he had a lot of road range. He
15 was very verbally aggressive when he was in the car. 11:11:53
16 If he saw someone that he did not like in the grocery
17 store, he would mumble words under his breath,
18 inappropriate words, about the people. As it said on
19 the document that we had just read, he was very
20 racist towards Hispanic people. So whenever he would 11:12:10
21 see a Hispanic person or something would happen in
22 regards to him and a Hispanic person, he would make
23 comments to Danielle and I about them and their race
24 in more of an aggressive way.

25 Q Is Danielle Hispanic? 11:12:28

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1 A I believe so, yes.

2 Q Did he ever make comments about Danielle's
3 race?

4 A Not that I can recall.

5 Q Did you -- did you observe Devin and

11:12:43

6 Danielle's relationship while you were living with
7 them?

8 A I would say so, yes.

9 Q Can you describe their relationship?

10 A Yes, I would describe it as kind of -- like

11:13:02

11 I mentioned before, Devin was kind of in charge.

12 Danielle would do whatever he wanted. He would take

13 whatever he wanted to eat and Danielle would make it

14 for him. Michael would be crying -- their baby

15 Michael would be crying and Devin would tell

11:13:21

16 Danielle, hey, you need to go do this for the baby.

17 So it was very, yes, controlling in terms of what

18 Devin wanted. It was going to happen. It was kind

19 of an I'm in charge, if that makes sense.

20 Q Can you give examples of Devin being

11:13:45

21 controlling?

22 A Um, nothing particular strikes my memory

23 more than like the movies that we wanted to watch.

24 It would be his choice. The food that we ate would

25 be his choice. He always needed her when we were out

11:14:06

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1 in public, he needed to be walking right beside her.
2 Um, she would always be wearing baggy clothes. I
3 believe that was because of his preference. She
4 would not wear any makeup. And I believe that was
5 per Devin. And then back to the job situation 11:14:32
6 between the two of them, I believe that Danielle did
7 not have a job and that was primarily because of
8 Devin's opinion.

9 Q Did Danielle have any friends that she
10 associated with without Devin? 11:14:55

11 A Without Devin I wouldn't -- no.

12 Q I'm sorry. Is that a "no" or you wouldn't
13 know?

14 A I'm sorry. No, I don't believe so.

15 Q Did Devin control Danielle's communications? 11:15:10

16 A Yes. They shared one cellphone in which
17 they had the same Facebook page. They shared the
18 same Facebook page. I don't recall her having any
19 other form, um, of her own communication. The text
20 message conversation between her and I where she 11:15:40
21 shared what was happening with Michael, I believe
22 that was through like a text messaging app that she
23 had on the phone. I believe that that was deleted
24 shortly after she used it. So it wasn't like an out
25 in open personal kind of conversation. It was more 11:16:03

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1 like if I wanted to talk to somebody it would be
2 private and more secretive, I guess.

3 Q The report -- when we looked at the F.B.I.
4 report and you put a correction about Devin's sexual
5 fetishes, can you tell me a little bit more about
6 your knowledge of the Kelleys' sex life?

11:16:26

7 A Yes. To my memory, we were standing in the
8 living room, Danielle and I one day. And I believe
9 Devin was using the restroom or the shower. He was
10 in their bedroom bathroom. And she had made a
11 comment to me about something that Devin had bought
12 previously that day. It was more of a strong
13 suggestion on his part that they had gotten it. She
14 let me peek into their room. There was some sex toys
15 laying on the bed. I guess they had a conversation
16 about that. She had relayed to me that it wasn't
17 really her choice to use them, that it was more along
18 the lines of what he wanted. She wasn't as big of a
19 fan of them as he was.

11:16:47

11:17:06

20 Q Did you get the impression that she was
21 happy to use the sex toys to make Devin happy?

11:17:26

22 A Um, I believe so. I don't think that she
23 would have used the sex toys in any other situation.
24 I believe that the only reason that they were using
25 them was because it was what Devin wanted.

11:17:50

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1 together, it was more in-home just movies, hanging
2 out, playing video games in the apartment.

3 Q Did they ever -- did Devin and Danielle ever
4 do anything separately?

5 A Not to my recollection no, other than use
6 the restroom.

11:21:15

7 Q Was interest ever an occasion where one of
8 them went to the grocery store without the other one?

9 A To my memory, no. Every time there was
10 something that needed to happen outside of the
11 apartment, they both went. Well, all of three of
12 them went together.

11:21:30

13 Q Do you know if Danielle ever spoke with
14 other friends without Devin?

15 A Not that I can recall. I was never aware of
16 that.

11:21:44

17 Q Do you know if she spoke with her other
18 friends with Devin?

19 A It was stated in the forms that they had a
20 couple friends come over. Um, I don't necessarily
21 recall that to this day, but they did have friends
22 together. To go back to your previous question about
23 speaking to friends, there's one friend whose name I
24 can't remember, but she had me reach out to him on my
25 Facebook to say "hello." I believe it was an old

11:22:00

11:22:21

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1 wearing baggy clothes all the time. I mean, she just
2 had a baby so.

3 Q How would Danielle respond when Devin
4 insulted her or told her what she had to do?

5 A From my memory, she was just very quiet,
6 wasn't very argumentative about things. She would
7 just kind of take what he said and move on, I guess.

11:25:51

8 Q Did she ever push back when he told her to
9 do something?

10 A Not to my memory, no.

11:26:10

11 Q Who controlled the finances in their
12 relationship?

13 A I don't recall.

14 Q Did you ever see -- did you ever see either
15 of them with a credit card?

11:26:28

16 A I believe that is what they paid for
17 groceries with when they would go for like grocery
18 shopping. Other than that, I wouldn't see it, not.

19 Q Do you know who had a credit card? Did they
20 both have a credit card? Did just one of them?

11:26:43

21 A I don't recall.

22 Q Did you ever witness Danielle talking to her
23 family?

24 A No, ma'am.

25 Q Did you ever -- did she ever tell you

11:26:54

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1 at all?

2 A Not that I can recall, no.

3 Q Did Devin ever talk to friends?

4 A Um, I don't recall him particularly speaking
5 to friends. Like I mentioned before, um, they had a 11:35:10
6 pair of friends I think it was from their hometown
7 come to visit them together, but never just Devin. I
8 don't recall.

9 Q Did you ever observe Devin talking to his
10 family? 11:35:29

11 A No, ma'am.

12 Q Did Devin Kelley seem to you to be an honest
13 man?

14 A No.

15 Q Why do you say that? 11:35:37

16 A I think it was just my perception of him,
17 just knowing the things that I knew about him I just
18 wouldn't have pegged him as a very honest person.
19 Nothing in particular, but --

20 Q When you say the things you knew about him,
21 like what? 11:35:55

22 A Just the abuse from his past. Um, I take
23 that as manipulation. Being that are manipulative
24 aren't very honest, in my opinion.

25 Q Did Devin ever talk to you about weapons? 11:36:16

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1 A Aside from the gun that he had had in his
2 closet, they had one of those police batons. But
3 outside of that, I don't recall any particular
4 conversation about weapons.

5 Q When did you see the gun that was in Devin's
6 closet?

11:36:37

7 A While we were living together in the
8 apartment. Um, I don't know how that conversation
9 came about, but I remember we all kind of were in
10 their closet probably unpacking and he pulled it out
11 and he showed it to me.

11:36:55

12 Q Do you know what kind of gun it was?

13 A Not particular what kind. I do know it was
14 a little handheld gun, smaller.

15 Q Do you know if the gun was loaded?

11:37:13

16 A I don't recall whether it was or was not.

17 Q Do you know if Devin ever concealed carried
18 weapons?

19 A In my memory, he did have a concealed carry
20 gun that he carried, but I don't ever remember him
21 showing me. I remember him speaking about it, but
22 never like pulling it out and showing me or being
23 obvious with it.

11:37:43

24 Q Do you know if Devin had a concealed carry
25 permit?

11:38:01

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1 I
2 unfriended them. I did look back in my history and
3 my friends, and I am no longer friends with them so I
4 assume I unfriended them at some point.

5 Q Do you ever recall Kelley -- do you ever 11:40:59
6 recall Devin talking about mass shooters?

7 A Not that I can recall, no.

8 Q Do you ever recall him posting anything
9 strange or unusual on their joint Facebook account?

10 A From my memory, no. They didn't have very 11:41:23
11 much posted on their Facebook. I don't even recall
12 them posting a picture of their son or even that they
13 had a son. So to answer your question, no.

14 Q Did Devin ever seem angry?

15 A Daily, yes. 11:41:49

16 Q How did he seem angry?

17 A I'm -- it just seemed like who he was. He
18 just seemed like an angry person, towards Hispanic
19 people, drivers, pretty much anything that didn't go
20 his way, I guess, would upset him. 11:42:08

21 Q Did Devin ever seem vindictive?

22 A Um, not particularly while we were living
23 together. Um, I don't recall any comments or like
24 behaviors that would make me think that he was.

25 Q Did he seem vindictive before or after you 11:42:45

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1 the dog?

2 A Um, he wasn't very interactive with the dog
3 to my memory. That was more Danielle's dog in my
4 opinion than his. He was -- he kind of ignored the
5 dog.

11:47:46

6 Q Um, when Devin wanted something, would he --
7 would you say he was determined to get it?

8 A Oh, yeah.

9 Q Can you give an example?

10 A Um, like to bring back the eating, whatever
11 he wanted to eat or the movie he wanted to watch, he
12 always had a reason for why that was the best option
13 at the time.

11:48:03

14 Q What -- did you ever push back if, you know,
15 he wanted to eat something and you didn't want to eat
16 the same thing? Did you ever push back?

11:48:22

17 A No. Um, I tried to stay more or less out of
18 his way. If he wanted to eat something that I didn't
19 want, I would just go buy my own food. Like I
20 mentioned before, I have previous experience with
21 people like him, abusive people. I just kind of
22 learned to veer in the other direction.

11:48:40

23 Q If something was getting in Devin's way of
24 getting what he wants, how would he respond to that?

25 A Um, I don't know how to explain it other

11:49:05

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1 than a child. Just kind of temper tantrum-y. If he
2 didn't get what he wanted, he made sure to let people
3 know that he was unhappy or just kind of in that
4 sense, I guess.

5 Q Would Devin lie to get his way?

11:49:31

6 A In my opinion, yes. I don't have any
7 examples of that, but in my opinion yes.

8 Q Did Devin ever seem secretive?

9 A Towards me, yeah. Just in the sense that he
10 never really told me about himself or his life or
11 what he was doing. We never had like those sorts of
12 conversations with each other.

11:49:54

13 Q Um, did you ever see him make plans to do
14 anything?

15 A Not that I can recall, no.

11:50:09

16 Q Was there ever a time where Devin, I guess,
17 did something that you knew must have taken planning
18 but you didn't see him make those plans, were unaware
19 of those plans?

20 MR. SCHREIBER: Objection. Vague.

11:50:38

21 THE WITNESS: Um, not that I can recall, no.

22 BY MS. KRIEGER:

23 Q Over the time that you knew him, which was
24 not terribly long, but did you notice any changes in
25 him?

11:50:59

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1 assaulted her?

2 A Not to my memory, no.

3 Q Obviously hindsight in 2020. But at the
4 time that you were living with the Kelleys, did you
5 ever think that he would commit a mass shooting at
6 his mother-in-law's church?

11:52:53

7 A No.

8 Q With all the knowledge that you had, knowing
9 that he had abused his family, that he was
10 aggressive, that he owned firearms, did it ever occur
11 to you that he might commit a mass shooting?

11:53:10

12 MR. SCHREIBER: Objection to form, calls for
13 speculation.

14 THE WITNESS: Um, I don't particularly ever
15 remember having that thought, that particular
16 thought, no.

11:53:23

17 BY MS. KRIEGER:

18 Q Did you ever think that he would commit I'll
19 say a non-mass shooting, that he would ever -- did
20 you ever think that he might shoot someone?

11:53:41

21 MR. SCHREIBER: Calls for speculation.

22 THE WITNESS: Yeah. Um, he just seemed like
23 the type of person that if he didn't get his way, he
24 would do whatever it took to get what he wanted. And
25 knowing that he had the past that he and he had the

11:53:54

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1 anger problems that in my opinion he had, I think at
2 that time I definitely could have seen him lashing
3 out in that sense.

4 BY MS. KRIEGER:

5 Q Were you surprised when you heard about the 11:54:09
6 shooting at the church in Texas?

7 A Yes.

8 Q Why were you surprised?

9 A Um, I guess that not just a daily thing that
10 happens. So there's obviously like that initial 11:54:27
11 shock. But I guess the more that I thought about it,
12 I guess it made sense that it was him.

13 Q Do you believe that if Devin had asked
14 Danielle to purchase a weapon for him, how do you
15 think she would have responded? 11:54:56

16 MR. SCHREIBER: Calls for speculation.
17 Objection.

18 THE WITNESS: Um, in my opinion, when Devin
19 wanted something from Danielle, she would do whatever
20 it took to make him happy. I don't particularly 11:55:13
21 think that if she would have known what was going to
22 happen with the firearm she would have done it. But
23 if it was like an everyday type of question, I guess
24 I could see her doing it. Buying the gun. I'm
25 sorry. 11:55:36

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1 BY MS. KRIEGER:

2 Q So just to be clear if Devin had asked
3 Danielle to purchase a weapon, do you think that
4 Danielle would have purchased it for him?

5 MR. SCHREIBER: Objection. Calls for
6 speculation.

11:55:46

7 THE WITNESS: Um, yes. Um, just to add on
8 to that, in my opinion if she knew what it was going
9 to be used for, I don't think she would have. But
10 yes.

11:55:59

11 BY MS. KRIEGER:

12 Q While you were living with the Kelleys, how
13 did Devin treat you?

14 A Um, kind of just like another person living
15 there. I think he saw that I was not someone that
16 can be manipulated, so I don't think that he tried.
17 I think he just kind of let me live there, um, if
18 that makes sense, Um, kind of like as a passing by
19 person, if that makes sense.

11:56:17

20 MR. SCHREIBER: Can you repeat that? Mine
21 cut out.

11:56:40

22 THE WITNESS: Yes, sir.

23 He just treated me as if I was like a
24 passing by person. Like there was never any
25 aggressive really towards me or never any like

11:56:50

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1 emotions towards me, he was never joking with me or,
2 um, trying to make me feel welcome or trying to make
3 me not feel welcome. I think it was just two
4 separate worlds for him in my opinion when it came to
5 me.

11:57:04

6 BY MS. KRIEGER:

7 Q Did Devin ever yell at you?

8 A No, ma'am.

9 Q Did you ever feel frightened of him?

10 A I think once Danielle started confiding in
11 me and telling me about his past, I would say that
12 there was, um -- I was frightened, yes, but not in a
13 sense that he would do anything to me. I wouldn't --
14 I don't -- I didn't believe that he would have, you
15 know, done anything towards me.

11:57:20

16 Q Did he ever do anything towards you that
17 felt threatening?

18 A Not while we lived together, no. Well, that
19 I was aware of, not while we lived together.

11:57:41

20 Q After you lived together, did he do anything
21 that felt threatening?

11:58:00

22 A Danielle had mentioned after they left about
23 how he would go into my bedroom while I was away and
24 do God knows what inside my bedroom. And in my
25 opinion that was threatening, but I didn't know that

11:58:21

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1 at the time while we were living together.

2 Q When you say "do God knows what," the report
3 mentions that you said -- the F.B.I. report mentions
4 that he would masturbate on your clothes?

5 A On my underwear. Yes. Um, I had found out
6 that he was going into my room and masturbating on my
7 underwear. Um, and also I had my iPad at the time.
8 I guess he went into my room and he was -- I don't
9 know how he got onto my iPad, but I guess he was on
10 my iPad looking through my photos and stuff like
11 that.

11:58:35

11:58:59

12 Q Did he send any of your photos or other
13 personal information to himself that you are aware
14 of?

15 A Not that I am aware of, no.

11:59:15

16 Q Other than the going into your room while
17 you were not home, did Devin make any sexual advances
18 to your face while you were living together?

19 A No, ma'am.

20 Q Um, did he make sexual advances towards you
21 after they moved out?

11:59:37

22 A Via the text messages, yes.

23 Q Okay. When did that -- when did he first
24 send you a sexual text message?

25 A Um, I don't have a particular like date in

11:59:55

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1 mind, but, um, if I could make a guess, um, I would
2 say probably a few months after they had left would
3 have been the first one.

4 Q And we have seen some examples in Exhibits 5
5 and 6. Would you say that those are kind of
6 representative of the kinds of text messages that he
7 would send?

12:00:17

8 A Yes. In the examples that you have, it was
9 him asking me to show him particular things. In
10 other text messages that I was receiving, it was him
11 asking me to perform specific things for money.

12:00:36

12 Q I'm sorry to ask you this, but can you be
13 more specific? I know this is hard.

14 A It's okay. In one text message that I
15 recall, it was him asking me to give him oral sex.
16 Um, I believe there was another one where he was
17 asking for sex in general, but just along those
18 lines.

12:00:54

19 Q How would you respond to his text messages?

20 A Um, probably using some language I shouldn't
21 have, but in a very -- in a sense in which he would
22 know that it was a "no" type words, me being very --

12:01:16

23 Q You can say it. It's okay.

24 A Yeah. Um, I just, um -- I just did it in a
25 sense where he would blatantly know that the answer

12:01:40

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1 was no. I guess I was very upset that he would even
2 text me in the first place, so I would pass that on
3 and tell him "no" and tell him to lose my number.

4 Q Would you block his number?

5 A Yes.

12:01:58

6 Q Approximately how many times do you think he
7 texted you with these sexual propositions?

8 A Um, I would say probably between four and
9 five text messages.

10 Q Um, when was the last time that Devin texted
11 you?

12:02:18

12 A I want to say the last text message that I
13 got was the one that the F.B.I. had. I don't recall
14 a date on that, but I want to say that was the last
15 text messages, last conversations that he and I had
16 had in terms of asking for anything sexual.

12:02:37

17 Q Do you know what year that would have been?

18 A I don't remember. It's the picture that you
19 have, the date that's on top of that conversation
20 should be it.

12:02:57

21 Q Um, do we want to take another five-minute
22 break?

23 A I'm okay without.

24 MR. SCHREIBER: I'm fine too.

25 ///

12:03:10

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1 was a little bit more on the aggressive side. He
2 would like pin his legs down to change his diaper.
3 But like I mentioned, that was a rarity that he ever
4 changed Michael's diaper.

5 Q Okay. So you mentioned the night with the 12:06:39
6 bruises on the baby's legs. Can you tell me what
7 happened that night?

8 A To my memory, um, Devin was in the restroom
9 whether taking a shower or using the restroom,
10 whatever. Danielle came out and spoke with me and 12:07:03
11 mentioned something with Michael. Then we continued
12 talking about whatever, um, she was mentioning
13 through the text messaging app that we had, told me
14 about the bruises. I went in to see them. Saw them.
15 She had sent me pictures. 12:07:26

16 I remember telling her in the conversation,
17 um, you either need to leave him. We need to go talk
18 to the police. Something needs to happen. It's one
19 thing to be abused yourself by him. That's not
20 anything anyone else can do anything about really. 12:07:47
21 You have to be the person to do that. But Michael is
22 an innocent little baby. Someone needs to be looking
23 out for him. So if you don't do something about it,
24 I am going to.

25 She just kept telling me that she was going 12:08:03

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1 to leave Devin. She was going to leave him. She was
2 going to tell him that what he was doing was not
3 okay. She kept asking me not to tell the police
4 because she was concerned that Michael was going to
5 be taken away from them.

12:08:16

6 Then my god-sister came over. Her and I
7 went out to go swimming that night. When we came
8 back, we fell asleep. The next morning we woke up,
9 and that's when I noticed that they were gone.

10 Q Did you see the bruises yourself or did you
11 just see the photos that Danielle took of them?

12:08:34

12 A I saw the bruises.

13 Q And you said Danielle took the photos --
14 sent you photos of the bruises, and that was the
15 pictures you looked at before, Exhibits 3 and 4?

12:08:52

16 A Yes.

17 Q Then when you were talking with Danielle and
18 telling her to go to the police or leave, the text
19 messages were part of the conversation -- the text
20 messages were shown at least in part in the document
21 that we looked at before, Exhibit 5?

12:09:18

22 A Yes. That was part of our conversation that
23 we had had that night.

24 Q I would actually like to look again at the
25 conversations that you had. Let me log in again.

12:09:39

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1 shouldn't be going down into the office and, you
2 know, having conversations with people who worked
3 there.

4 Q Were you home when the Kelleys left?

5 A No. Not to my knowledge. I don't ever
6 remember hearing them moving stuff out. In my
7 opinion, they left while I was swimming with my
8 god-sister.

12:16:14

9 Q So you woke up in the morning, and they were
10 just gone; is that right?

12:16:34

11 A Yes, ma'am.

12 Q What did you do when you saw that they were
13 gone?

14 A My god-sister was still in the apartment
15 with me. She came over and stayed the night that
16 night. Um, we woke up, realized they were gone, got
17 in my car and drove to the nearest police station so
18 I could file the police report.

12:16:44

19 Q Um, did you try and contact either of the
20 Kelleys when you saw they were gone?

12:17:02

21 A Um, in my memory, I did. I tried to like
22 text and kind of act like nothing was going on. Um,
23 just "Hey, what's going on? When are you coming back
24 for dinner? I just want to like be able to plan my
25 day." And in my memory, they were just kind of going

12:17:22

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1 along with it. I tried to call them. And eventually
2 she just kind of texted me and said, "Hey, this is
3 best. We are just going our separate ways." We are
4 not coming back essentially.

5 Q Was that before -- when you got that message 12:17:42
6 from Danielle, was that before or after you went to
7 the police?

8 A After. I went to the police the first thing
9 in the morning.

10 Q In the police report -- you said as far as 12:17:57
11 you are aware the police report that was taken is
12 what we have already looked at Exhibit 9?

13 A Yes. As far as I am aware, that is what
14 they had written the day that I had gone. I never
15 saw anything after that. After I went and had given 12:18:15
16 my statement, I never seen any documentation about it
17 after that, so I wouldn't really know the difference.

18 Q Um, do you know if the Colorado police did
19 anything?

20 A I'm not aware of that. 12:18:27

21 Q Did they tell you they were going to do
22 anything after you made your report?

23 A Um, reading the documentation that you had
24 sent me, it says somewhere that the cops had come to
25 the apartment. In my memory, I don't recall that 12:18:46

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1 messages with Danielle immediately after they left,
2 um, did you have any other communications with
3 Danielle after the Kelleys moved out?

4 A Um, other than the text message a few months
5 later, um, where she had sent me what I believe is 12:20:21
6 the Halloween picture of Michael and her telling me
7 that she splint up with Devin and all that, we
8 haven't had any conversation other than that.

9 Q Do you still have those text messages?

10 A No, ma'am. 12:20:38

11 Q Other than the sexual messages that Devin --
12 that we have already talked about, did you have any
13 communications with Devin Kelley after he moved out?

14 A No, ma'am.

15 Q Um, I will kind of go back and do some 12:20:55
16 follow-up on some of the things that we were talking
17 about earlier that I may have missed at the time.

18 You mentioned -- at one point you said when
19 we were looking at one of the F.B.I. documents, you
20 said that fetishes were forced on Danielle. Did 12:21:27
21 you -- did Danielle -- did Devin force sexual
22 activity on Danielle?

23 A Yes. Like I had mentioned, I had seen some
24 sex toys in their bedroom. She had mentioned that
25 they had used them, and it wasn't really her choice 12:22:02

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1 or her preference to use them. Other than that, I --
2 there is nothing else that I can recall.

3 Q Did Danielle ever talk about having sex with
4 Devin when she didn't want to?

5 A Um, yes. But more in like a "I don't feel 12:22:23
6 like it" type of way. I don't ever recall her
7 telling me that it was like a rape situation. I
8 don't recall her telling me that when we were
9 together. Like I mention, like it was more of a "I
10 don't feel like it but okay whatever" type of 12:22:43
11 situation.

12 Q Um, when we talked about whether -- about
13 Devin being physically abusive to Danielle, you
14 mentioned that you -- Danielle told you about the
15 time he pushed her down the stairs and you said you 12:23:00
16 couldn't recall other instances. Is that because
17 you -- can you not recall specific instances or you
18 just don't know if there were other instances at all?

19 A Um, I don't know -- I can't recall the
20 particular instances. I don't want to say that I 12:23:25
21 don't think there were any because I do think there
22 were some, but I don't recall any particular
23 conversations we had.

24 Q Um, then you mentioned that you think that
25 Danielle stopped working in part because Devin 12:23:46

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1 remember at one point we were like we need to think
2 of a plan to get her out of it. Um, I guess whenever
3 something would happen, I would just kind of reach
4 out to him because he was a medium between what was
5 right and what was actually happening, if that's 12:29:14
6 makes sense.

7 Q You said at the very beginning that
8 Mr. Schreiber -- when you spoke with Mr. Schreiber,
9 he asked you your opinion of Danielle. Do you
10 remember exactly what he asked? 12:29:33

11 A Um, I don't remember exactly what he asked
12 me, no.

13 Q What is your opinion of Danielle now?

14 A Um, at this current moment my opinion?

15 Q Yes. 12:29:53

16 A Um, I hate to say it but kind of for lack of
17 a better word a liar. I had seen something like a
18 conversation or news report from like the Washington
19 Post, I think it was, in regards to her relationship
20 and her life with Devin, and I can remember thinking 12:30:16
21 all of it was a lie, everything she was saying was a
22 lie.

23 I think she is a sweet person, but I think
24 at a certain point when sweet people have
25 manipulative people in their life for an extended 12:30:32

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1 period of time it kind of takes a toll on them. But
2 she loves her kid, and that's something to be said.
3 I think it shows a person for how they treat their
4 kid.

5 Q Is your opinion now -- is that opinion that 12:30:51
6 you just expressed, is that a change from how you
7 used to feel about her?

8 A Yeah. I never thought that she, again, for
9 lack of a better word would have been a liar to that
10 extent. Um, but she has always been like when I knew 12:31:13
11 her previously, she had always been a sweet person.
12 She cared about others. She wanted other people to
13 be happy. She would put everybody before herself at
14 the end of the day. That's definitely a very
15 different opinion from how I feel about her today, 12:31:29
16 yes.

17 Q As you mentioned earlier, you and I had
18 previously talked by phone including, as you said, a
19 long about two-hour conversation. Um, is there
20 anything that we discussed on those phone calls that 12:31:51
21 we haven't discussed here today?

22 A Um, not that I can particularly remember.
23 Um, this is a very similar conversation to what we
24 had had on the phone.

25 Q Um, and we also exchanged some e-mails back 12:32:10

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1 A Correct.

2 MS. KRIEGER: Objection. The report speaks
3 for itself.

4 BY MR. SCHREIBER:

5 Q Did you know that the reason there was no
6 information the police could find about Devin's
7 criminal history is that the Air Force hadn't told
8 them?

12:55:06

9 MS. KRIEGER: Objection. Outside of this
10 witness' knowledge.

12:55:18

11 THE WITNESS: Yeah. I had no idea.

12 BY MR. SCHREIBER:

13 Q Do you think it hurts your credibility when
14 you told the police he had been in prison and kicked
15 out of the Army when the records didn't show anything
16 about that?

12:55:29

17 A Can you repeat that? I'm sorry.

18 Q Do you think it might have hurt your
19 credibility in your report about baby Michael when
20 you told the police that Devin had been in jail and
21 kicked out of the Army and nothing showed up in the
22 background check about that?

12:55:38

23 MS. KRIEGER: Objection. Calls for
24 speculation.

25 THE WITNESS: Yes, sir.

12:55:49

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1 BY MR. SCHREIBER:

2 Q Do you think it put baby Michael in danger
3 that you gave a report about Devin and nothing showed
4 up in the background check so the police didn't
5 believe you?

12:56:01

6 MS. KRIEGER: Objection. Speculation.

7 THE WITNESS: In my opinion -- I'm sorry.
8 In my opinion, maybe if there was something else in
9 his record when I went and filed the police report
10 something else would have been done, I guess.

12:56:18

11 MR. SCHREIBER: Just a moment.

12 I will pass the witness back.

13

14 FURTHER EXAMINATION

15 BY MS. KRIEGER:

12:56:44

16 Q You said you had experience in an abusive
17 relationship. How long were you in that abusive
18 relationship?

19 A Um, way too long. Um, I mean I was a child
20 at the -- well, I was in school at the time. Um,
21 probably no more than a year.

12:57:02

22 Q Did you ever try to leave that relationship
23 and then go back to it?

24 A Many times.

25 Q Mr. Schreiber -- in response to

12:57:19

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1 Mr. Schreiber's question, you said that Danielle
2 wanted to protect her baby; is that right?

3 A Yes, I believe so.

4 Q Do you think that for a parent to stay with
5 an abuser is dangerous to a child?

12:57:41

6 MR. SCHREIBER: Objection. Speculation.

7 THE WITNESS: Yes.

8 BY MS. KRIEGER:

9 Q Why?

10 MR. SCHREIBER: Objection. Speculation.

12:57:52

11 THE WITNESS: Because I mean if that parent
12 is still staying with the abusive parent, that puts
13 the baby in -- in the situation with them. If the
14 abusive parent wasn't involved, obviously the baby
15 wouldn't be involved either.

12:58:10

16 BY MS. KRIEGER:

17 Q Do you think Danielle maybe had kind of a
18 blind spot with it came to Devin?

19 MR. SCHREIBER: Objection. Calls for
20 speculation.

12:58:19

21 THE WITNESS: Um, possibly. Um, I think
22 that she was well aware of who he was as a person.
23 Um, but relationships like this, I feel like there's
24 always -- people always try to find a reason to stay.
25 Um, so that could have possibly been a blind spot,

12:58:40

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1 because one reason why she should stay.

2 BY MS. KRIEGER:

3 Q Did you ever see Danielle directly tell

4 Devin "no"?

5 A Not to my knowledge, no.

12:58:56

6 MS. KRIEGER: I have no further questions.

7 MR. SCHREIBER: No further questions from
8 me.

9 THE VIDEOGRAPHER: We are going off the
10 record at 12:59 p.m.

12:59:10

11 THE COURT REPORTER: Mr. Schreiber, would
12 you like a copy of the transcript?

13 MR. SCHREIBER: Yes, ma'am.

14 (Proceedings concluded at 12:59 p.m.)
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REPORTER'S CERTIFICATE

I, CYNTHIA GAGE, B.S., M.A., a California
Certified Shorthand Reporter No. 10492, and Notary
Public within and for the State of Colorado
commissioned to administer oaths, do hereby certify:

That previous to the commencement of the
remote examination, the deponent was duly sworn by me
to testify the truth; that said deposition was taken
in stenotype remotely and was thereafter reduced to
typewritten form by me; and that the foregoing is a
true record of the remote testimony given by said
deponent;

Request to review the transcript was made;

I further certify that I am not related to
any of the parties to this action or in any way
connected with any attorney or counsel for any of the
parties to said action, and that I am in no way
interested in the outcome of this matter.

My commission expires: August 7, 2022.



CYNTHIA GAGE, B.S., M.A., California
Certified Shorthand Reporter,
CSR No. 10492; and Notary Public
within and for the State of Colorado